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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,799	01/07/2002	Leonard E. Frey	END920010075US1	2893
7590	03/07/2007		EXAMINER	
John R. Pivnichny, Ph.D IBM Corporation, N50/040-4 1701 North Street Endicott, NY 13760			ART UNIT	PAPER NUMBER

DATE MAILED: 03/07/2007

Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 10/040,799	Applicant(s) FREY ET AL.
	Examiner Srirama Channavajjala	Art Unit 2166

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 20 December 2006 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi))
6. The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. Other (including any explanation in support of the above items):

See Continuation Sheet.


Srirama Channavajjala
Primary Examiner
Art Unit: 2166

Continuation of 10. Other (including any explanation in support of the above items): The appeal brief of December 20 2,006 is defective for the following reasons:

- (1) The status of the claims are not correct. The status of the claims should reflect the status of the claims in the last office action mailed on 9/22/2006. Applicant should not provide a status of claims based on other office actions in the record except for the last office action. The status should reflect claims 1-19 as being rejected.
- (2) The arguments should be limited to arguments based on rejections presented in the last office action mailed on 9/22/2006. The rejections available for appeal are only those presented in the last office action. No other rejections are being applied except those in the last office action, so presenting arguments to rejections no longer being applied will create considerable confusion in the record. It may also possibly lead to remand of the appeal, causing potential further delays..